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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/603,108 | 06/22/2000 | Denis Serenyi | 04860.P2535 | 9213 |

7590

05/13/2004

James C Scheller Jr
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

EXAMINER

DUONG, THOMAS

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 05/13/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/603,108

Applicant(s)

SERENYI ET AL.

Examiner

Thomas Duong

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 69-88, 137-139, 141-142 and 145 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 69-88, 137-139, 141-142 and 145 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on March 3, 2004 (Paper No. 7). The amendment filed on March 3, 2004 has been entered and made of record. *Claims 1-20, 69-88, 137-139, 141-142 and 145* are presented for further consideration and examination.

Response to Argument

2. The Applicants' arguments and amendments filed on March 3, 2004 have been fully considered, but they are not persuasive.
3. With regard to claims 1, 3, 12, 69, 71, 80, 137-139, 141-142 and 145, the Applicants point out that:
 - *Therefore, applicants respectfully submit that Wynblatt does not disclose transmitting a request for data associated with said streaming media data, said request including an identifier which is associated with said streaming media data, and is at least one of a transmit time data and a packet frame type data, as recited in amended claim 1. Accordingly, Wynblatt lacks the same features of amended claim 1 that are missing from Lambert.*

However, the Examiner finds that the Applicants' arguments are not persuasive and maintains that the Wynblatt reference does disclose, Wynblatt (US006546421B1) teaches,

- *transmitting a request for data (descriptive pages) associated with said streaming media data, said request including an identifier which is associated with said streaming media data, and is at least one of a transmit time data and a packet frame type data (Wynblatt, col.4, lines 55-64; col.5, lines 50-52; module 303, fig.3; Wynblatt teaches of requesting “descriptive pages” from the descriptive servers to convey information about the content of one or more corresponding data streams on the data stream servers)*

In summary, the Examiner maintains that Wynblatt does disclose a method that sends HTTP requests for “descriptive pages” from the descriptive servers to convey information about the content of one or more corresponding data streams on the data stream servers. It is well known to one of ordinary skill in the art that the HTTP request would include an identifier (i.e. a URL address) which is associated with the descriptive page for the corresponding data stream. Furthermore, it is well known to one of ordinary skill in the art that an HTTP request is a data packet which would require a transmittal time. Therefore, the Applicants still failed to clearly disclose the novelty of the invention and identify specific limitation, which would define patentable distinction over prior art.

4. With regard to claims 7-9, 14-15, 17-18, 75-77, 82-83 and 85-86, the Applicants point out that:

- *In contrast to the present disclosure, Bushmitch's timeout variable does not represent type of transmitted data, in particular, it does not represent the transmit time for the data packet, as recited in amended claim 1. Accordingly, Bushmitch does not disclose transmitting a request for data associated with said streaming media data, said request including an identifier which is associated with said*

streaming media data, and is at least one of a -transmit time data and a packet frame type data, as recited in amended claim 1.

However, the Examiner finds that the Applicants' arguments are not persuasive and maintains that the Bushmitch reference does disclose,

Bushmitch (US006275471B1) teaches,

- *further comprising sending the requested data associated with the transmission protocol in an extensible extended header format. (Bushmitch, col.5, lines 15-28; col.4, line 63 – col.5, line 14; Bushmitch teaches of transmittal of a data block in a media delivery system realized as a succession of data packets during a data block cycle)*

In summary, the Examiner maintains that Bushmitch does disclose a method that uses the header extension area of the data packet to transmit stream-specific data. Furthermore, Bushmitch teaches of a transmittal of a data block in a media delivery system realized as a succession of data packets during a data block cycle which suggests a transmittal time for the packets. Therefore, the Applicants still failed to clearly disclose the novelty of the invention and identify specific limitation, which would define patentable distinction over prior art.

5. With regard to the motivations to combine the references, the Applicants point out that:

- *In addition, applicants respectfully submit that there is no motivation within the references themselves to combine these references, because they are oriented toward different areas: Lambert's disclosure addresses the problem of effective Internet search by providing the subscription mechanism that delivers new and updated information from the publishers' sites to the client's machine in response to the user's request; Wynblatt's disclosure is oriented toward automatic selection*

of Internet data streams by using predefined parameters; and Bushmitch addresses the problem of reconstruction of missing or lost data packets during the real-time multimedia streaming by using negative acknowledgment mechanism. The present disclosure, in contrast, addresses the problem of handling the real-time multimedia streaming data loads at the client's machine and the problem of smooth packet delivery utilizing the identifier that represents type of multimedia streaming data. Therefore, since these references cannot be logically combined, applicants respectfully submit that claims 1-20, 69-88, 137-139, 141, 142 and 145 are not obvious over these references.

However, the Examiner finds that the Applicants' arguments are not persuasive and maintains that,

- Lambert (US006629138B1) teaches of a system in which the user requests and receives streaming media data (content) from the caching server of a content provider which may include a media company.
- Furthermore, Wynblatt (US006546421B1) teaches of a system in which the user also requests and receives streaming media data (data stream) from data stream servers of the provider. In addition, Wynblatt also teaches that the user can requests data associated with the streaming media data (descriptive pages about the corresponding data streams) to convey information about the content of the corresponding data stream.
- Furthermore, Bushmitch (US006275471B1) teaches of a system that deliver reliable real-time multimedia streaming that utilizes a reliable real-time protocol such as Real-Time Transport Protocol (RTP).

In summary, the Applicants still failed to clearly disclose the novelty of the invention and identify specific limitation, which would define patentable distinction over prior art.

6. With regard to claims 2, 4-11, 13-20, 70, 72-79 and 81-88, they are rejected at least by virtual of their dependency on the independent claims and by other reasons set forth in the previous office action (Paper No.6). Accordingly, rejections for *claims 2, 4-11, 13-20, 70, 72-79 and 81-88* are presented as below:

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claims 1-6, 10-13, 15-16, 19-20, 69-74, 78-81, 83-84, 137-139, 141-142 and 145 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert et al. (US006629138B1) and in view of Wynblatt et al. (US006546421B1).
9. With regard to claims 1-2, 69-70, 137-139, 141-142 and 145, Lambert reference discloses,
- *transmitting a request for streaming media data to be delivered to said caching proxy server; (Lambert, col.5, lines 28-30; col.6, lines 10-12; fig.2-3)*
 - *receiving said streaming media data and storing said streaming media data on a storage device which is capable of being controlled by said caching proxy server; and (Lambert, col.12, lines 57-60; col.6, lines 54-57; fig.3; fig.6)*
- However, Lambert reference does not explicitly disclose,

- *transmitting a request for data associated with said streaming media data, said request including an identifier which represents one of several possible types of data associated with said streaming media*
- *receiving said data associated with said streaming media data*

Wynblatt teaches,

- *transmitting a request for data associated with said streaming media data, said request including an identifier which represents one of several possible types of data associated with said streaming media* (Wynblatt, col.4, lines 55-64; fig.3)
- *receiving said data associated with said streaming media data* (Wynblatt, col.4, line 64 – col.5, line 4; fig.3)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Wynblatt reference with Lambert reference to convey information regarding the content of one or more corresponding data streams of the data stream servers (Wynblatt, col.3, lines 3-6).

10. With regard to claims 3, 12, 71 and 80, Lambert reference discloses,

- *responding to the request with a response indicating a capability of the server to support the request; and* (Lambert, col.8, lines 3-7)

However, Lambert reference does not explicitly disclose,

- *receiving a request for streaming media data, (Lambert, col.6, lines 10-12; fig.2-3) said request including a request for data associated with said streaming media data, said request including an identifier which represents one of several possible types of data associated with said streaming media data;*
- *sending the requested data associated with said streaming media data*

Wynblatt teaches,

- *receiving a request for streaming media data, (Lambert, col.6, lines 10-12; fig.2-3) said request including a request for data associated with said streaming media data, said request including an identifier which represents one of several possible types of data associated with said streaming media data; (Wynblatt, col.4, lines 55-64; fig.3)*
- *sending the requested data associated with said streaming media data (Wynblatt, col.4, line 64 – col.5, line 4; fig.3)*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Wynblatt reference with Lambert reference to convey information regarding the content of one or more corresponding data streams of the data stream servers (Wynblatt, col.3, lines 3-6).

11. With regard to claims 4, 13, 72 and 81, Lambert reference discloses,

See claims 3, 12, 71 and 80 rejection as detailed above.

However, Lambert reference does not explicitly disclose,

- *wherein said sending uses a real-time transport protocol (RTP)*

Wynblatt teaches,

- *wherein said sending uses a real-time transport protocol (RTP) (Wynblatt, col.1, lines 22-31)*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Wynblatt reference with Lambert reference to allow the user to access (view, listen or both) the streaming media on a real-time basis. Furthermore, the purpose of RTP is to enhance applications such as distance learning, conferencing tools and video-on-demand in the areas of education,

- business and entertainment, respectively by providing the demand of VCR like control features in the multimedia applications above.
12. With regard to claims 5 and 73, Lambert and Wynblatt references disclose,
See *claims 3 and 71* rejection as detailed above.
Furthermore, Lambert reference discloses,
 - *wherein said request may be made by a caching proxy server or a client*
(Lambert, col.5, lines 30-33, lines 35-38, lines 60-61; col.6, lines 10-12)
13. With regard to claims 6, 10-11, 16, 19-20, 74, 78-79, 84 and 87-88, Lambert and Wynblatt references disclose,
See *claims 3, 12, 71 and 80* rejection as detailed above.
Furthermore, Lambert reference discloses,
 - *wherein the server responding with an echo only if it supports the request*
(Lambert, col.8, lines 3-7)
14. With regard to claims 15 and 83, Lambert and Wynblatt references disclose,
See *claims 12 and 80* rejection as detailed above.
Furthermore, Lambert reference discloses,
 - *wherein said sending a request may be for one or more various and unrelated types of streaming media data to be sent at a time* (Lambert, col.5, lines 12-16)
15. Claims 7-9, 14-15, 17-18, 75-77, 82-83 and 85-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert et al. (US006629138B1), in view of Wynblatt et al. (US006546421B1) and further in view of Bushmitch et al. (US006275471B1).

16. With regard to claims 7-9, 14, 17-18, 75-77, 82 and 85-86, Lambert and Wynblatt references disclose,

See *claims 3, 12, 71 and 80* rejection as detailed above.

However, Lambert and Wynblatt references do not explicitly disclose,

- *further comprising sending the requested data associated with the transmission protocol in an extensible extended header format*

Bushmitch teaches,

- *further comprising sending the requested data associated with the transmission protocol in an extensible extended header format* (Bushmitch, col.5, lines 15-28)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Bushmitch reference with Wynblatt and Lambert references to provide for reliable real-time data streaming in a multimedia delivery system while utilizing best effort unreliable network services (e.g. Internet).

17. With regard to claims 15 and 83, Lambert and Wynblatt references disclose,

See *claims 12 and 80* rejection as detailed above.

Furthermore, Bushmitch reference teaches,

- *wherein said sending a request may be for one or more various and unrelated types of streaming media data to be sent at a time* (Bushmitch, col.3, lines 33-43)


Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Bushmitch reference with Wynblatt and Lambert references to increase the flexibility and robustness of the system by including the ability to service multiple media streams at any particular time.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 703/305-1886. The examiner can normally be reached on M-F 7:30AM - 4:00PM.
- If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703/308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.
- Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-3900.

Thomas Duong (AU2143)

May 11, 2004


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100